IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO.265 OF 2004

Suburban Industries Ltd. .. Applicant

Vs.

Indian Oil Corporation Ltd. .. Respondent

Mr. P.M. Pradhan for the applicant.

Mr. Vishal Maheshwari i/b M/s. Negandhi, Shah and Himayatullah for the respondent.

CORAM : B. H. MARLAPALLE,J.

Date : February 17, 2006.

P.C.:

1. Heard Mr. Pradhan the learned counsel for the applicant-company and Mr. Maheshwari, the learned counsel for the respondent.

2. The petitioner has invoked the powers of this court under Section 11(6) of the Arbitration and Conciliation Act, 1996. However, the first prayer in the petition is to declare that the order dated 23/6/2004 passed by the sole Arbitrator is illegal and the next prayer is for appointment of the sole Arbitrator afresh.

3. Admittedly, Arbitration Petition No.109 of 2002 came to be disposed off by this court on

8/10/2002 with directions that the arbitral proceedings be completed within two years from the date entering into reference. Subsequently, Arbitration Application No. 198 of 2004 came to be moved and it was pointed out that the arbitral proceedings were pending. The sole Arbitrator has dismissed the application filed by the applicant and directed to continue with the arbitration proceedings.

4. In these obtaining circumstances, this fresh application cannot be entertained under Section 11 of the Act and the same is rejected as not maintainable. Undoubtedly, this order is without prejudice to the rights and contentions of the parties on merits.

(B.H. Marlapalle, J.)